

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

2017 DEC 15 AM 9:48

DEBATH CLERK
WESTERN DISTRICT OF TEXAS

BY

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WHOLE WOMAN'S HEALTH, BROOKSIDE
WOMEN'S MEDICAL CENTER PA d/b/a
Brookside Women's Health Center and Austin
Women's Health Center, DR. LENDOLL DAVIS,
ALAMO CITY SURGERY CENTER PLLC d/b/a
Alamo Women's Reproductive Services, and NOVA
HEALTH SYSTEMS, INC. d/b/a Reproductive
Services,

Plaintiffs,

-vs-

Case No. A-16-CA-1300

JOHN HELLERSTEDT, M.D., Commissioner of
the Texas Department of State Health Services, in
his official capacity,

Defendant.

ORDER

Before the Court is Plaintiffs' Motion to Lift Stay filed on June 8, 2017 (Dkt. #70) and the Parties' Joint Status Report (Dkt. # 82). After careful consideration of the documents, the governing law, and the file as a whole, the Court—for the reasons that follow—(1) **DISMISSES** Plaintiffs' Motion to Lift Stay (Dkt. #70) as moot but (2) **LIFTS** the stay previously imposed in this case.

On March 16, 2017, a stay was issued pending a decision from the Court of Appeals for the Fifth Circuit concerning the preliminary injunction entered on January 27, 2017. (See "Stay Order," Dkt. # 66.) Plaintiffs subsequently moved to lift the stay in order to modify the preliminary injunction in light of Texas Senate Bill 8 (SB 8), despite the pending appeal. (See Dkt. # 70.) SB 8 modifies the Texas statutory scheme for the disposal of embryonic and fetal tissue remains and solicits new

implementing regulations from the Texas Department of State Health Services (DSHS). (See id. Ex. A (SB 8) at 14–17.) Thus far, the Court has declined to rule on Plaintiffs’ motion to lift the stay.

However, on December 6, 2017, the Fifth Circuit dismissed the appeal of this Court’s preliminary injunction pursuant to Defendant’s unopposed motion to voluntarily dismiss the appeal, which cited the impending effective date of SB 8. (See “USCA Mandate,” Dkt. # 80.) Plaintiffs have indicated they intend to file an amended complaint and a new motion for a preliminary injunction once SB 8’s final implementing regulations are published. (Dkt. #82 at 2.)

Because this case is no longer on appeal, Plaintiffs’ motion to lift the stay asking the Court to modify its injunction while the appeal was pending is moot. But, given the dismissal of the appeal, the Court lifts the stay.

CONCLUSION

Accordingly, the Court (1) **DISMISSES** Plaintiffs’ Motion to Lift Stay (Dkt. #70) as moot and (2) **LIFTS** the stay imposed in this case.

IT IS SO ORDERED.

DATE: Austin, Texas, December 14, 2017.



DAVID ALAN EZRA
UNITED STATES DISTRICT JUDGE